

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EASTMAN OUTDOORS, INC. and
EASTMAN HOLDING COMPANY,

Plaintiffs,

Civil No. 03-73394
Hon. John Feikens

v.

BLACKHAWK ARROW COMPANY
and WILLIAM J. GARTLAND &
ASSOCIATES,

Defendants.

OPINION AND ORDER

Plaintiffs, Eastman Outdoors, Inc. and Eastman Holding Co. (collectively “Eastman”), bring a claim against Defendants Blackhawk Arrow Co. and William J. Garland & Associates (collectively “Blackhawk”) for patent infringement. Plaintiffs now move, pursuant to Fed. R. Civ. P. 37, to compel Defendant Blackhawk to: (1) provide full and complete initial disclosures; (2) provide supplemental responses to Plaintiffs’ discovery requests; and (3) pay Eastman’s attorney’s fees incurred in bringing the present motion.

Defendants do not oppose providing full and complete initial disclosures, however, they claim that they need more time to determine to comply with the Federal Rules of Civil Procedure. Lastly, Defendants oppose Plaintiffs’ request for attorneys’ fees and claim that Plaintiffs should be sanctioned for failure to comply with Local Rule 7.1.

I. FACTUAL BACKGROUND

The facts of this case are discussed in detail in Eastman Outdoors, Inc. v. Blackhawk Arrow Co., 2004 WL 1745855 (E.D. Mich. Aug. 3, 2004) (order denying Defendants' Motion for Summary Judgment)

II. ANALYSIS

A. Initial Disclosures

Plaintiffs claim that, in spite of Fed. R. Civ. P. 26(a), Defendants refused to provide Plaintiffs with Defendants' initial disclosures. (Pl.s' Br. in Supp. of Mot. to Compel at 3.) Defendants do not contest this, but ask for sanctions because Plaintiffs allegedly failed to comply Local Rule 7.1. (Def.s' Br. in Opp'n. at 1.)

Plaintiffs twice reminded Defendants of Defendants' mandatory duty to provide initial disclosures, pursuant to Fed. R. Civ. P. 26(a). (Pl.s' Br. in Supp. of Mot. to Compel at Ex. C and Ex. D.) Defendants do not contest that on both occasions Defendants failed to even respond to Plaintiffs' requests. Therefore, Plaintiffs complied with the spirit of Local Rule 7.1, and Defendants have not. Therefore, I GRANT Plaintiffs' Motion to Compel as it relates to the provision of initial disclosures and DENY Defendant's request for sanctions.

B. Supplemental Responses to Plaintiffs' Discovery Requests

Plaintiffs request that this Court compel Defendants to provide supplemental responses to Plaintiffs' First Set of Interrogatories and Plaintiffs' First Set of Requests For Production of Documents that were served on Blackhawk on March 31, 2004. (Mot. to Compel at 1-2.) Defendants have do not contest that they must supplement their responses to Plaintiffs' requests. (Def.s' Br. in Opp'n. at

3.) Therefore, I GRANT Plaintiffs Motion to Compel as that motion relates to supplementation of requests for production of documents.

Plaintiffs also request that Defendants supplement their discovery responses in respect to a Blackhawk representative's alleged statement that was made to an Eastman principle that Blackhawk had located new prior art that allegedly invalidated Eastman's patent. (Pl.s' Br. in Supp. of Mot. to Compel at 2; citing Ex. E.)

Defendants need to supplement their responses to Plaintiffs' discovery interrogatories because admittedly, Defendants incompletely answered Plaintiffs' interrogatory No. 1 in a material aspect; and Defendants have not deposed any third parties regarding this non-disclosed additional information. (Def.s' Br. in Opp'n. at 2 & 3.) Therefore, I GRANT Plaintiffs' Motion to Compel as that motion relates to supplementation of Defendants' discovery responses.

III. CONCLUSION

For the reasons above, I GRANT Plaintiffs' Motion to Compel. I also DENY Defendant's request for sanctions, and I STAY a hearing on Plaintiff's request for sanctions pending a determination by this Court that Defendants have fully complied with this Court's Opinion and Order.

IT IS SO ORDERED.

John Feikens
United States District Judge

Date: _____